

43.4(6) Limitation of checkoffs on the individual income tax return. For tax years beginning on or after January 1, 1995, no more than three checkoffs are allowed on the individual income tax return. The election campaign fund checkoff is not considered for purposes of limiting the number of checkoffs on the income tax return. When the same three checkoffs have been provided on the income tax return for three consecutive years, the checkoff for which the least amount has been contributed in the aggregate for the first two years and through March 15 of the third tax year will be repealed.

For example, the 1995 Iowa individual income tax return due in 1996 includes checkoffs A, B and C which also were shown on the Iowa returns for 1993 and 1994. Through March 15, 1996, \$90,000 was contributed on the 1993, 1994 and 1995 returns for checkoff A, \$60,000 was contributed for checkoff B and \$120,000 for checkoff C. Since the least amount contributed in the aggregate was for checkoff B, that checkoff is repealed and will not appear on the 1996 Iowa income tax return to be filed in 1997.

This rule is intended to implement Iowa Code sections 56.18, 236.15A, 236.15B, 422.12D, 422.12E as amended by 1997 Iowa Acts, Senate File 542, and 456A.16.

701—43.5(422) Abatement of tax. (For assessments issued prior to January 1, 1995). Iowa Code section 422.28 provides that a taxpayer may appeal to the director within 90 days any portion of tax, penalties, or interest assessed against the taxpayer. However, in the case of assessments issued on or after July 1, 1986, the period for appeal is reduced from 90 days to 60 days. If a taxpayer fails to appeal the assessment within the statutory period, the assessment becomes fixed as a matter of law: *Iowa Department of Revenue v. Ingwersen*, Des Moines County District Court, Case No. 17623, February 22, 1973; *Commonwealth v. Kettenacker*, 335 S.W.2d 339 (Ky.); *Heasley v. Engen*, 124 N.W.2d 398 (1963 N.D.). If, however, the statutory period for appeal has expired, the director may abate any portion of tax, penalties or interest assessed which the director determines is excessive in amount or erroneously or illegally assessed. However, for notices of assessment issued on or after January 1, 1995, see rule 701—7.31(421).

43.5(1) Assessments qualifying for abatement. To be subject to an abatement, an assessment must have been issued that exceeded the amount due as provided by the Iowa Code and the administrative rules issued by the department interpreting the Iowa Code. If a taxpayer fails to appeal an assessment that is based on the Iowa Code or the department's administrative rules interpreting the Iowa Code within the statutory period, then the taxpayer cannot request an abatement of the assessment, or a portion thereof, beyond the statutory time for appeal.

a. Examples of assessments where abatements may be requested include, but are not limited to, the following:

- (1) Inclusion of income not required to be reported by the Iowa Code or administrative rule;
- (2) Estimated or jeopardy assessments;
- (3) Disallowance of a deduction;
- (4) Disallowance of an exemption;
- (5) Disallowance of a credit;
- (6) Interest erroneously assessed;
- (7) Change of filing status such as from married joint to married filing separately on the combined return;
- (8) Change of deduction method as from standard deduction to itemized deductions.

b. Examples of assessments where abatement may not be requested include but are not limited to the following:

(1) Use of a method of accounting or method of reporting income not provided by the Iowa Code or administrative rules.

(2) Any other elections which the individual made on the return as filed.

43.5(2) *Procedures for requesting abatement.* If it is determined that an assessment, or portion thereof, is excessive or has been erroneously or illegally assessed, the taxpayer shall make a written request to the director for abatement of that portion of the assessment that is excessive. A request for abatement which is filed shall contain:

1. The taxpayer's name and address;

2. A statement on the type of proceeding, e.g., individual income tax, request for abatement; and

3. The following information:

a. The nature of the tax, the taxable period or periods involved and the amount thereof that was excessive or erroneously or illegally assessed;

b. Clear and concise statements of each and every error which the taxpayer alleges to have been committed by the director in the notice of the deficiency. Each assignment of error shall be separately numbered;

c. Clear and concise statements of all relevant facts upon which the taxpayer relies (documents verifying the correct amount of tax liability must be attached to this request);

d. Refer to any particular statute or statutes and any rule or rules involved;

e. The signature of the taxpayer or that of the taxpayer's representative;

f. Description of records or documents which were not available or were not presented to department personnel prior to the filing of this request, if any;

g. Any other matters deemed relevant and not covered in the above paragraphs.

This rule is intended to implement Iowa Code section 422.28.

701—43.6(422) 1978 Income tax rebate. A rebate of 1978 taxes is to be computed for all taxpayers that had an individual income tax liability for the first tax year beginning in 1978. The provisions of the rebate Act are in effect through June 30, 1980; therefore, the following subrules are applicable only through that date as clarified below in subrules 43.6(1) to 43.6(4).

43.6(1) *Rebate determined on tax liability minus allowable credits.* The amount of the rebate is determined on the Iowa income tax liability of a taxpayer, minus credits for *(a)* personal exemptions, *(b)* child and dependent care as defined in Section 44A of the Internal Revenue Code and *(c)* income tax paid to another state or foreign country. If the total of the above allowable credits is equal to or greater than the income tax liability of the taxpayer, the taxpayer will receive no rebate.

43.6(2) Married couples filing separate return. For purposes of the rebate, a married couple shall be considered as one taxpayer and the amount of the rebate shall be determined on the combined income tax liability of both spouses. For married persons filing separately on a combined return, only one rebate check will be issued in the names of both spouses. In the case of married taxpayers, who elect to file separate returns, the allowable rebate shall be prorated between the spouses on the ratio that each spouse's income tax liability bears to the total income tax liability of both spouses. The following formula may be used to compute the amount of the rebate that will be issued to each spouse:

allowable
rebate

×

wife's income tax liability
(net of applicable credits)

income tax liability of both
spouses (net of applicable credits)

=

wife's rebate

allowable
rebate

×

husband's income tax liability
(net of applicable credits)

income tax liability of both
spouses (net of applicable credits)

=

husband's rebate

EXAMPLE 1. A husband and wife file separate Iowa returns for 1978. The husband's income tax liability is \$600 after reduction of the credits specified in subrule 43.6(1). The wife's income tax liability after reduction of the credits is \$400. The allowable rebate for the taxpayers is 10 percent of their combined liability of \$1,000 or \$100. On the basis of the formula, the wife's rebate is:

\$100

×

\$400

\$1000

=

\$40

The husband's rebate is:

\$100

×

\$600

\$1000

=

\$60

EXAMPLE 2. A husband and wife file separate Iowa returns for 1978. The husband's income tax liability is \$4,900. The wife's income tax liability is \$100. The allowable rebate for the taxpayers is 10 percent of their total liability of \$5,000 or \$500, but is limited to \$250.

The wife's rebate is:

\$250

×

\$100

\$5000

=

\$ 5.00

The husband's rebate is:

\$250

×

\$4900

\$5000

=

\$245.00

43.6(3) *Audits or examinations during period of rebate.* The effect of the rebate must be considered in audits of 1978 Iowa returns when the audits or examinations are agreed to by the taxpayer or a certified notice is sent to the taxpayer on or before June 30, 1980. In cases where audits completed prior to June 30, 1980, increase the income tax liability of the taxpayer, the amount of the rebate of the taxpayer will be increased accordingly, subject to the maximum amount of \$250. In cases where audits completed prior to June 30, 1980, decrease the income tax liability of the taxpayer, the rebate of the taxpayer will be decreased accordingly.

43.6(4) *Amended returns received during the rebate period.* The department will adjust the amount of the rebate on all amended 1978 returns that are received or are postmarked on or before June 30, 1980.

43.6(5) *Interest paid on rebates.* Interest at the rate of three-fourths of 1 percent per month is to be paid on rebates not made within 120 days from the date of payment. For calendar year 1978 returns filed before April 30, 1979, the date of payment is April 30, 1979. For calendar year 1978 returns filed after April 30, 1979, due to an extension of time, the date of payment is the last date to which the return due date has been extended and not the actual date the return is filed.

(EXAMPLE: A return due date has been extended to June 30, 1979. Even though the return is filed on May 15, 1979, the date of payment for purposes of the rebate is June 30, 1979, and, therefore, no interest would accrue on the rebate until 120 days after June 30, 1979.) For fiscal years, the date of payment is considered to be the last day of the fourth month following the close of the tax year, or in the case of extensions, the last day of the month for which the return due date has been extended. However, interest will not be paid on rebates issued after 120 days from the date of payment in the case of returns that were improperly or incorrectly completed. For purposes of paying interest on rebates, amended returns will be considered as returns that are improperly or incorrectly completed. Also, any adjustment to a return which alters the tax liability, or an application of an overpayment to another tax due which the taxpayer currently owes the department will be considered an improper or incorrect return.

43.6(6) *Application of rebate when taxpayer fails to remit tax.* For any individual that files an income tax return before the due date but fails to remit the tax due with the return, an assessment will be issued for the total amount of tax, penalty, interest and fees due. No rebate will be refunded or applied to this liability unless the taxpayer remits the difference between the amount due and the amount of the rebate and specifically requests that the rebate be applied to the tax liability due. Any balance of the rebate will be refunded to the taxpayer.

701—43.7(422) **Special refund for taxpayers with net long-term capital gains in the tax year.** Taxpayers that have net long-term capital gains in tax years beginning on or after January 1, 1987, but before January 1, 1990, may file refund claims on overpayments that would result from recomputing their income tax liabilities with a capital gain deduction on a limited portion of net long-term capital gains. This benefit is not available to estates and trusts. See rule 701—40.38(422) for the capital gains deduction for limited amounts of certain types of capital gains which is applicable for tax years beginning on or after January 1, 1990.

The following subrules set out qualifications that taxpayers must meet to be eligible for the special refunds and clarify other issues related to the special refunds.

43.7(1) *Net long-term capital gains that are not applicable for the special refund.* To the extent that the federal adjusted gross income of a taxpayer includes capital gain treatment for sales of dairy cattle made between January 1, 1987, and September 1, 1987, under the federal milk production termination program, the capital gains from these sales do not qualify for the special refund. Any net long-term capital gains which are not included in net income because the gains qualify as distressed sales transactions pursuant to Iowa Code subsection 422.7(25) also do not qualify for the special refund described in this rule.

43.7(2) *Qualifications that must be met for taxpayers with net long-term capital gains in the tax year to be eligible for the special refund.* Taxpayers with net long-term capital gains in the tax years beginning in 1987, 1988, and 1989 must meet three qualifications to be eligible for the special refund. First of all, the taxpayers must file their returns on a timely basis. This means that the returns must be filed on or before the due dates of the returns or must be filed by the extended due date of October 31, 1988, for calendar-year taxpayers with valid extensions of time to file their 1987 returns.

Secondly, the taxpayers must file claims for the special refunds on Form IA 50 on or before October 31, 1988, if the taxpayers are filing on a calendar-year basis for 1987. Taxpayers filing special refund claims for 1988 and subsequent years must file the claim forms when they file their returns. Claims for the special refund should be filed with the taxpayer's state return by attaching the completed Form IA 50 to the return form and by entering the amount of the potential special refund on the line for the refund near the bottom of page two of the IA 1040 return form.

The third qualification that must be met is that the taxpayer must have paid all the income tax required to be shown to be due on the return for the 1987 tax year. This tax shown to be due must be paid on or before October 31, 1988. In the case of 1988 returns and returns for subsequent years, taxpayers claiming the special refunds on these returns must have paid all the taxes due at the time they file the returns. For purposes of payment of the tax, taxpayers may not consider any potential refund from the special refund as a tax payment.

See subrule 43.7(3) for qualifications that must be met for fiscal year taxpayers.

43.7(3) *Taxpayers with net long-term capital gains filing fiscal-year returns for tax years beginning in 1987, 1988, and 1989.* Taxpayers filing returns for tax years beginning in 1987, 1988, and 1989 which are on a fiscal-year basis must meet similar qualifications for eligibility for the special refund as calendar-year taxpayers. The fiscal-year taxpayers must file their returns timely in order to be eligible for the special refund. The return must be filed on or before the due date or within six months of the extended due date in cases of taxpayers with valid extensions to file their returns after the due dates.

The fiscal-year filers must file claims for the special refunds on the basis of their net long-term capital gains within six months of the due dates of their returns for years beginning in 1987. In the case of returns with special refunds for tax years beginning in 1988 and in subsequent years, the claims for the special refunds should be filed when the returns are filed. The claims must be filed on Form IA 50.

The final qualification that fiscal-year filers must meet to be eligible for the special refund is that the taxpayers must pay all the income taxes required to be shown due on their returns for the tax years beginning in 1987, 1988, and 1989. These taxes must be paid within six months of the due dates of the returns for tax years beginning in 1987. In the case of returns for years beginning in 1988 and in subsequent years, the taxes due on the returns must be paid at the times the returns are filed.

43.7(4) *Limitations on net long-term capital gains that qualify for the special refunds.* In the case of all taxpayers, except married taxpayers filing separate returns, the net long-term capital gains that must be considered for the special refund is the lesser of the net long-term capital gains of the taxpayer or net long-term capital gains of \$17,500. Married taxpayers who elect separate filing on the combined return form are treated as one taxpayer and the total amount of net capital gains to be used for purposes of the special refund shall not exceed \$17,500. If the net long-term capital gains of these taxpayers exceeds \$17,500, the \$17,500 limitation shall be allocated between the spouses in the ratio of each spouse's net capital gain to the net capital gains of both spouses.

In the case of married taxpayers filing separate returns, each spouse may consider for purposes of the special refund, the lesser of the net capital gain received by that spouse or a net capital gain of \$8,750.

43.7(5) *Computation of special refunds.* The special refunds are computed by reducing the taxable incomes of the taxpayers by the capital gain deduction on the net long-term capital gains that qualify for the special refunds according to the limitations described in subrule 43.7(4). The potential special refund is the reduction in the Iowa income tax on the taxable income as reduced by the applicable capital gain deduction. However, to the extent that the taxpayer's state alternative minimum tax is increased as a result of reduction of the individual's regular income tax liability by application of the capital gain deduction, the potential special refund is not allowed.

This special refund will not be allowed to the extent that the income tax liability on the portion of the net long-term capital gain which is affected by the special refund is satisfied by an out-of-state tax credit on a capital gain which is taxed by another state or foreign country. In addition, the special refund is not allowed to the extent that the capital gain of a nonresident or part-year resident is satisfied by the nonresident part-year resident credit. No special refunds may be granted on returns for individuals where no state income taxes were paid on the returns.

43.7(6) *Distribution of the special refunds in February 1989.* No interest will be paid on the special refunds if the special refunds are issued on or before February 28, 1989, for tax years beginning in 1987. The general assembly has allocated \$8 million for the special refunds. If potential special refunds exceed the aggregate of \$8 million, the refunds will be allocated to the taxpayers in the ratio of the amount of each taxpayer's potential special refund to the aggregate of the amounts of potential special refunds for all taxpayers.

In the case of fiscal-year taxpayers whose special refunds are not available for distribution in February 1989, these taxpayers' potential special refunds will be issued in the same ratio as was determined for the special refunds to be distributed in February 1989, for tax years beginning in 1987.

In cases where the amounts of special refunds issued to eligible taxpayers are less than the special refunds requested by the taxpayers, the taxpayers are not entitled to future refunds, credits, or carryovers of the portions of the special refunds which are not issued because of the \$8 million limitation on the special refunds.

Note that in the case of special refunds for tax years beginning in 1988 and 1989, the special refunds for those tax years are to be distributed by February 1990 and February 1991, respectively, in order for the refunds to be distributed without payment of interest.

43.7(7) *Tax items not to be affected by special refunds.* Administration of special refunds shall not affect the amounts of the following items as those items were shown or claimed on the taxpayer's return for the tax year beginning in 1987, 1988 and 1989.

1. Checkoff to the Iowa election campaign fund under Iowa Code section 56.18.
2. Checkoff to the fish and game protection fund in Iowa Code section 107.16.
3. Credits against tax provided in Iowa Code section 422.10.
4. Credits against tax provided in Iowa Code section 422.11A.
5. Credits against tax provided in Iowa Code section 422.12.
6. School district income surtax liability computed in Iowa Code section 442.15.
7. Checkoff to the U.S. Olympic fund provided in Iowa Code section 422.12A for tax years beginning on or after January 1, 1988.

The special refund issued to a taxpayer will be considered for purposes of audits or reviews of claims for refunds which take place after the special refunds are issued.

The special refund will not be issued to a taxpayer to the extent that the taxpayer has an outstanding tax liability from a tax administered by the department of revenue and finance or the taxpayer is subject to one or more of the setoffs authorized in Iowa Code chapter 421.

This rule is intended to implement Iowa Code section 422.9.

701—43.8(422) Livestock production credit refunds for corporate taxpayers and individual taxpayers. For tax years beginning on or after January 1, 1996, corporate and individual taxpayers who own certain livestock, have livestock production operations in Iowa in the tax year, and who meet certain qualifications are eligible for a livestock production credit refund. The amount of a livestock production credit refund is determined by adding together for each head of livestock in the taxpayer's operation the product of 10 cents for each corn equivalent deemed to have been consumed by that animal in the taxpayer's operation in the tax year. However, for tax years beginning in the 1996 calendar year and for tax years beginning on or after January 1, 1997, only qualified taxpayers that have cow-calf livestock production operations described in paragraph "i" of subrule 43.8(2) will be eligible for the livestock production credit refunds, notwithstanding the other types of livestock operations mentioned in this rule. Note that the livestock production credit refund is also available to taxpayers who meet the qualifications described in subrule 43.8(1) and operate certain types of poultry operations in this state and own the poultry in the operations. The amounts of the livestock production credit refunds for these taxpayers are determined on the basis of 10 cents for each corn equivalent deemed to have been consumed by the chickens or the turkeys in the taxpayers' poultry operations in the tax year. However, the amount of livestock production credit refund may not exceed \$3,000 per livestock or poultry operation for a tax year. In addition, the amount of livestock production credit refund per taxpayer for a tax year may not exceed \$3,000. Therefore, if a particular taxpayer is involved in a cow-calf beef operation, a sheep-ewe flock operation, and a farrow-to-finish hog operation, the maximum livestock production credit refund for this taxpayer may not exceed \$3,000.

General references in this rule to livestock, livestock production, and livestock production operations also apply to poultry, poultry production, and poultry production operations.

In the case of married taxpayers, each of the spouses may be eligible for a livestock production refund of up to \$3,000 if each of the spouses was involved in a livestock production operation independently from the other spouse and independently from other taxpayers in the tax year. If both spouses are involved in the same livestock operation, the maximum refund from that operation is \$3,000 which may be allocated between the individuals in the ratio of each spouse's ownership interest in the operation. If a livestock production operation is conducted by a partnership, limited liability company, subchapter S corporation, estate, or a trust, the livestock production credit refund from the entity is to be allocated to the owners of the entity in the same ratio as earnings are allocated to the owners. In situations where a livestock production operation is conducted partly within and partly without Iowa, only the livestock production activity in Iowa during the tax year will be considered for purposes of the livestock credit refund. The livestock production refund amounts for these taxpayers is to be allocated on the basis of sales of Iowa livestock which qualify taxpayers for the livestock production refund to total sales of livestock which qualify taxpayers for the refund. However, the refunds from any operations may not exceed \$3,000. The following subrules outline how the livestock production credit refund program is to be administered by the department of revenue and finance:

43.8(1) *Qualifications for the livestock production credit refunds.* Taxpayers that own livestock located in Iowa in a tax year must meet the qualifications in paragraphs "a" and "b" in order to be eligible for the livestock production credit refunds for tax years beginning in the 1996 calendar year. Taxpayers that own livestock located in Iowa in tax years beginning on or after January 1, 1997, must meet the qualification in paragraph "c" for a tax year in order to be eligible for the livestock product refund for that tax year:

a. The taxpayer's net worth at the end of the tax year for the refund must be less than \$1 million. A taxpayer filing a claim for the livestock production credit refund is to complete a balance sheet to establish the taxpayer's net worth on the last day of the tax year for which the refund is claimed. The balance sheet is to be completed on the basis of the accounting method used by the taxpayer for federal and Iowa income tax purposes. The taxpayer does not have to file the balance sheet with the taxpayer's return as part of the taxpayer's claim for the livestock production credit refund. However, the balance sheet must be retained with the taxpayer's other tax records for a minimum of three years after the return was filed so the balance sheet is available for audit by the department of revenue and finance. The balance sheet must include all assets owned by the taxpayer and must show the fair market value of those assets as well as the liabilities or debts that are attributable to that taxpayer. In the case of married taxpayers where only one of the spouses is materially participating in the livestock operation, only the fair market values of the assets owned by that individual are to be entered on the balance sheet, including half of the value of farmland owned by the spouses, other real estate, and items of personal property which are owned together by both taxpayers. In these situations, the taxpayer must list as liabilities on the balance sheet only those debts for which the taxpayer is personally liable. In the case of liabilities for property that is jointly owned by the taxpayer and the taxpayer's spouse, including property owned as tenants in common, only the debt on these properties that is the taxpayer's share of the debt is to be shown on the balance sheet.

b. More than one-half of the taxpayer's gross income received or accrued in the tax year must be from farming or ranching activities. A taxpayer's gross income from farming or ranching includes amounts the individual has received in the tax year from cultivating the soil or raising or harvesting any agricultural commodities. This includes, but is not limited to, income from the operation of a stock, dairy, poultry, fish, bee, fruit, or truck farm, plantation, ranch, nursery, range, orchard, or oyster bed, as well as income in the form of crop shares received from the use of the taxpayer's land. It also includes total gains from sales of draft, breeding, dairy, or sporting livestock. In the case of individual income tax returns for the 1995 tax year, gross income from farming or ranching includes the total of the amounts from line 11 or line 51 of Schedule F and line 7 of Form 4835 ("Farm Rental Income and Expenses"), plus the share of partnership income from farming, the share of net taxable income from farming in an estate or trust, and total gains from the sale of livestock held for draft, breeding, sport, or dairy purposes, as shown on Form 4797 ("Sale of Business Property"). In the case of individual returns for tax years beginning in 1996 and thereafter, equivalent lines from returns and supplementary forms would be used to determine a taxpayer's gross income from farming or ranching for those years.

To make a calculation as to whether more than half of the taxpayer's gross income in the tax year is from farming or ranching operations, the gross income from farming or ranching as determined in the previous paragraph is divided by the taxpayer's total gross income. If the resulting percentage is greater than 50 percent, the taxpayer will be eligible for the livestock production credit refund (assuming all other qualifications are met).

For example, a taxpayer had \$25,000 in wages, \$75,000 in gross income from farming, and \$10,000 in net income from farming. In this case 75 percent of the taxpayer's gross income was from farming even though the taxpayer had only \$10,000 in net income from farming activities.

In the case of married individuals, the taxpayer's gross income includes the income of the other spouse only if that spouse is materially participating in the livestock or poultry operation. If the other spouse is not materially participating in the livestock operation, the taxpayer's gross income from farming would be determined as if the taxpayer was filing a separate Iowa return so that the taxpayer's income and deductions are reported separately from the income and deductions of the taxpayer's spouse.

For example, a taxpayer's gross income from a cow-calf beef production operation was \$100,000 and the taxpayer's spouse had \$60,000 in gross income which was wages from employment. Since the taxpayer's spouse had no material participation in the taxpayer's cow-calf beef production operation, the spouse's income was not considered for purposes of determining if more than 50 percent of the taxpayer's gross income was from farming or ranching.

Taxpayers do not have to submit (with their claims for the livestock production credit refunds) proof that more than half of the taxpayer's gross income is from farming or ranching. However, they should be able to provide such proof if such proof is requested by the department.

c. Individual and corporate taxpayers will be eligible for the livestock production credit refund if the taxpayer's federal taxable income for tax years beginning in the 1997 calendar year is \$99,600 or less. In the case of married taxpayers, their combined federal taxable income must be considered to determine if they are eligible for the credit.

For each tax year beginning after 1997, the federal taxable income specified previously in this paragraph is to be multiplied by the “cumulative index factor” for that tax year to calculate the federal taxable income that will be used to determine whether a taxpayer is eligible for the livestock production refund that is authorized for that tax year. “Cumulative index factor” means the product of the annual index factor for the 1997 calendar year and all annual index factors for subsequent calendar years. The annual index factor equals the annual inflation factor for that calendar year as computed in Iowa Code section 422.4 for purposes of indexation of the tax rates for individual income tax.

43.8(2) Definitions related to the livestock production credit refunds. The following definitions explain livestock and poultry for purposes of this rule. The definitions also describe the various types of livestock operations of taxpayers which may qualify the taxpayers for the livestock production credit refunds and specify how the refunds are to be computed for the various types of livestock operations:

a. For the purposes of this rule, the term “livestock” means domestic bovine animals which will be referred to as bulls, heifers, cattle, calves, or cows in this rule, domestic ovine animals which will be referred to as sheep, lambs, rams, or ewes, or domestic swine which will be referred to as hogs or pigs. That is, for purposes of this rule, “livestock” includes only those farm animals which may qualify their owners for the livestock production credit refund. “Livestock” does not include horses, goats, donkeys, mules, oxen, furbearing mammals, other mammals, or other classes of animals, although some of these animals or species may be considered to be “livestock” in other contexts or situations.

b. For purposes of this rule the term “poultry” means only domestic chickens and domestic turkeys as only these types of birds may qualify their owners for the livestock production credit refunds. “Poultry” does not include ducks, geese, wild turkeys, emus, ostriches, or other fowl or birds, although some of these species may be considered to be poultry in other contexts or situations.

c. For purposes of this rule, the term “farrow-to-finish” hog operations comprises those hog production operations where the majority of the hogs sold from the operation are from animals farrowed and raised in the operation which are sold at a prime market weight of 200 pounds or more.

In order to compute the livestock production credit refund amounts for the “farrow-to-finish” hog production operations, the corn equivalent factor of 13 per animal sold, or \$1.30, is multiplied by the number of hogs sold at prime market weight in the tax year which were farrowed and raised in the operation. No corn equivalent credits are given for hogs sold at the prime market weight which have been in the operation less than three months on the date of sale. In the “farrow-to-finish” operations, hogs sold at a weight that is less than the prime market weight also are considered for purposes of computing the livestock production credit refund for the operation, but only at the corn equivalent factor of 2.6 or \$.26 per pig sold.

In “farrow-to-finish” hog operations, if any pigs are purchased at the feeder pig weight of less than 60 pounds and are sold at prime market weight (200 pounds or more), see paragraph “e” in this subrule for the corn equivalent factor which applies to these transactions.

d. For purposes of this rule, the term “farrow-to-feeder-pig” hog operations includes those operations where essentially all the pigs farrowed in the operation are sold at an average weight of less than 60 pounds per pig, or at “feeder pig” weight.

The potential livestock production credit refunds for these operations are computed by multiplying the corn equivalent factor of 2.6 or \$.26 times the number of pigs sold at the “feeder pig” weight from these operations in the tax year. However, the corn equivalent factor of 13 or \$1.30 per animal sold can be used for hogs sold at the prime market weight (200 pounds or more) from these operations for those animals where there is documentation that the hogs were born and raised in the operation or that the hogs were in the operation for a minimum of three months at the time the hogs were sold.

e. The term “finishing feeder pigs” hog operations comprises those operations where the majority of the hogs in this operation are purchased when these animals weighed less than 60 pounds or at the “feeder pig” weight and the animals are sold at the time the animals are at the prime market weight of 200 pounds or more per hog. The potential livestock production credit refunds for these operations are computed by multiplying the corn equivalent factor of 10.4 or \$1.04 times the number of animals sold in the year at the prime market weight. However, only those animals that were in the operation for a minimum of three months at the time the hogs were sold at prime market weight can be considered for purposes of the livestock production credit refund. Corn equivalent factor credits of 2.6 or \$.26 are given for animals which are purchased at the “feeder pig” weight of less than 60 pounds and were in the operation for a minimum of three months when the hogs were sold at a weight which is less than the prime market weight of 200 pounds or more per hog.

f. For purposes of this rule, the term “layer poultry operations” includes operations where the eggs produced by the chickens in the operation are sold for human consumption. The livestock production credit refunds for these operations are computed on the basis of the average number of chickens in the operation in the tax year multiplied by the corn equivalent factor of .88 or \$.088. The average number of chickens in the operation in the tax year is the aggregate of the number of chickens in the operation on the first day in the tax year that the operation was in production and the number of chickens in the operation on the last day of the tax year in which the operation was in production divided by 2.

However, in a situation where the operation was started or was shut down sometime during the tax year, the livestock refund amount otherwise computed must be reduced by 8.33 percent for each month in the tax year in which the operation was not in production. Thus, in the case where the computed livestock refund amount was \$2,000 and the operation was in production for only nine months of the tax year, the adjusted refund amount would be \$1,500 ($\$2,000 \times .0833 \times (3) = \500). ($\$2,000 - \$500 = \$1,500$)

g. For purposes of this rule, the term “turkey production operations” means operations involved in raising domestic turkeys for sale for human consumption and where the turkeys are sold at a prime market weight. The prime market weight for male or tom turkeys is between 30 and 35 pounds. The prime market weight for hen turkeys is between 22 and 25 pounds. The livestock production credit refund for this type of operation is computed by multiplying the number of turkeys sold in the tax year at the prime market weight times the corn equivalent factor of 1.5 or \$.15. However, only those turkeys that were in the operation for a minimum of three months on the date the turkeys were sold may be considered for purposes of computing the livestock production credit for the turkey operation.

h. For purposes of this rule, the term “broiler poultry operations” means poultry production operations whereby the chickens raised in the operations are sold for human consumption at a prime market weight or broiler weight between 3 pounds and 6 pounds depending on the breed or breeds of chickens. The livestock production credit refund for this type of operation is computed by multiplying the number of chickens sold in the tax year at broiler weight by the corn equivalent factor of .15 or \$.015. However, only chickens that are in the broiler operation for a minimum of six weeks before the chickens are sold at broiler weight may be considered for purposes of computing the livestock production credit for these operations.

i. For purposes of this rule, “cow-calf beef operations” means those beef cattle production operations whereby the majority of the cattle in the operations were born and raised in the operations and many of the cattle in the operations were sold at a prime market weight of 700 pounds or more.

The livestock production credit refunds for cow-calf operations include the number of cattle raised in the operation, which are sold in the tax year at the stocker weight under the criteria described in paragraph “j” of this subrule and which are sold in the tax year at the feedlot weight under the criteria described in paragraph “k” of this subrule. However, those cattle in the operation that were sold at the feedlot weight in the tax year qualify for a combined stocker and feedlot production credit refund of \$11.65 per head of cattle sold, to the extent the cattle sold had been in the operation at least 300 days after the cattle were weaned. Cattle in the operation that were sold at a weight below 700 pounds may not be counted for purposes of computing the livestock production credit refund for the operation. However, unbred replacement heifers in inventory on December 31 of the tax year would qualify for a production credit refund of \$4.15 per head if these cattle had been born, raised and weaned in the operation and had been in the herd for at least two months after weaning on December 31.

Finally, the livestock production credit refunds for cow-calf operations include refund amounts determined on the number of bred cows, bred yearling heifers, and breeding bulls in inventory on December 31 of the tax year times the corn equivalent factor of 111.5 or \$11.15. However, any bred cows, bred yearling heifers, and breeding bulls in inventory on December 31 which were not in the operation on July 1 of that calendar year may not be considered for purposes of computation of the livestock production credit refund.

j. For purposes of this rule, “stocker cattle operations” are beef cattle operations where essentially all cattle in the operations are purchased as calves, raised in the operation at least two months, and the cattle are sold in a range from 700 to 900 pounds per head which is deemed to be the “stocker weight.” Cattle in the operation that were sold at a weight of less than 700 pounds may not be counted for purposes of computing the livestock production credit refund for the operation. The livestock production credit refunds for these operations is computed on the basis of the number of cattle sold in the year at the stocker weight times the corn equivalent factor of 41.5 or \$4.15 per head. Cattle sold in the tax year must be reported on a first-in, first-out basis unless records of the taxpayer can support a different order of sale of the animals. If this operation includes calves that were raised on the farm where they were born, these calves qualify for the corn equivalent factor of 41.5 or \$4.15 per head if the calves were unsold at the end of the tax year and the calves were in the operation for a minimum of two months after the calves were weaned.

k. For purposes of this rule, “beef feedlot operations” include those beef cattle operations whereby the cattle are purchased as calves approximately 60 days from the time the calves were weaned or at a “stocker weight” and are sold at a feedlot weight of 900 pounds or more after a three-month period when the animals were on a high concentrate diet. Note that any animals which are purchased for the operation and are maintained in the herd for less than four months at the time of sale do not qualify the taxpayer for the livestock production credit refund of \$7.50 per head of cattle sold. The livestock production credit refund for these operations is computed by multiplying the number of cattle sold in the year at the feedlot weight times the corn equivalent amount of 75 or \$7.50 per animal. However, if any cattle in the operation are sold at the “stocker” weight of at least 700 pounds but less than 900 pounds, these animals may be counted for the livestock production credit refund at a corn equivalent amount of 41.5 or \$4.15 per head of cattle sold to the extent the cattle were in the operation for two months or more at the time of sale. If any cattle in the operation in the tax year were sold at a weight of less than 700 pounds, the sales of these cattle may not be counted for the livestock production credit refund. Cattle sold in the tax year must be reported on a first-in, first-out basis unless records of the taxpayer can support a different order of sale of the cattle.

l. For purposes of this rule, “dairy cattle operations” includes those cattle operations where the primary purpose of the operations is the production of milk and milk products for human consumption. The livestock production credit refund is computed by multiplying the aggregate of the number of milking cows in lactation on December 31 of the tax year and the number of cows bred to calve within 60 days of December 31 and the number of breeding bulls in inventory on December 31 times the corn equivalent number of 350 or \$35 per cow. However, cattle that were purchased in the period between July 1 and December 31 of the calendar year may not be considered for purposes of computation of the livestock production credit for the dairy operation. In the case of a “dairy cattle operation” which started or ceased production in the tax year, the livestock production credit refund otherwise computed must be reduced by 8.33 percent for each month in the tax year in which the livestock operation was not in production. Heifers in the operation are not counted for purposes of the credit until the animals are bred to calve.

m. For purposes of this rule, “ewe flock sheep operations” are sheep operations whereby the majority of the sheep and lambs sold from the operation were born and raised in the operation. The livestock production credit refunds for these operations are computed by multiplying the number of ewes and rams in inventory on December 31 of the tax year times the corn equivalent factor of 20.5 or \$2.05 per ewe or ram. Any ewes or rams purchased within three months before December 31 of the tax year may not be considered for purposes of computing the livestock production credit for the operation. In addition, lambs sold in the tax year from the operation may be counted for the production credit refund at 4.1 corn equivalents or \$.41 for each lamb sold to the extent the lambs were in the operation for a minimum of three months prior to the date of sale.

n. For purposes of this rule, “sheep feedlot operations” are sheep production operations where lambs born and raised in the operation are sold after the lambs have been in the operation for a minimum of three months prior to the date of sale. The livestock production credit refunds are computed by multiplying the number of lambs sold in the tax year times the corn equivalent factor of 4.1 or \$.41.

43.8(3) Filing claims for the livestock production credit refunds. Taxpayers who are eligible for the livestock production credit refunds must file refund requests on claim forms provided by the department that must be attached to their income tax returns for the tax year in which the livestock production occurred. The claim forms must be filed with the income tax returns within ten months after the end of the tax year of the return in order for the refund claims to be timely. Thus, in the case of a taxpayer filing a livestock production refund claim form with the 1996 Iowa income tax return for calendar year 1996, the claim forms must be filed by October 31, 1997, in order for the claims to be timely. Taxpayers may not request extensions for filing claims for the livestock production refunds.

The department will determine by February 28 of the year after the year in which the livestock production credit refund claims are to be filed if the total amount requested on the refund claims exceeds the amount appropriated for the refunds for that tax year. If a taxpayer’s refund claim is not payable on February 28 because the taxpayer is a fiscal year filer, that taxpayer’s claim will be considered to be a claim for the following tax year. However, in order for this claim to be considered to be a valid refund claim for the following tax year, the refund claim must have been filed within ten months after the end of the fiscal year of the taxpayer. However, in the case of livestock production credit refund claims for fiscal year periods beginning in 1996 which are not received soon enough to be considered for the refunds to be issued in February 1998, only claims for cow-calf livestock production operations will be considered with the livestock production refund claims for the 1997 tax year.

If a taxpayer files a fraudulent claim for a livestock production credit refund for a tax year, the taxpayer will be considered to have forfeited any right or interest to a livestock production refund for any subsequent tax year after the year of the fraudulent claim.

43.8(4) *Records needed to establish livestock production credit refunds.* The burden is on the taxpayer to maintain those records and documents which support the livestock production credit refund that was claimed by the taxpayer. Necessary records and documents must include, but are not limited to, the ones mentioned in this subrule. Some of the necessary records are inventory schedules showing the number of livestock or poultry in the livestock operation on certain dates in the tax year. Sales of livestock or poultry in the tax year must be supported by scale tickets, packing house invoices, sales receipts, sales barn invoices, and similar documents. Dairy herd improvement association records and similar inventory forms can be used to establish the number of animals or the number of birds on hand in the operation on a certain day in the tax year. These documents are not to be submitted with the taxpayer's income tax return with the livestock production credit refund claim form. Instead, the documents are to be retained with other tax records for at least three years in case of possible audit by the department of revenue and finance.

This rule is intended to implement Iowa Code section 422.120 as amended by 1997 Iowa Acts, House File 726, division I.

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